

As Engrossed: 3/10/95 3/22/95 3/30/95

ACT 1256 1995
A Bill

SENATE BILL 609

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Dowd
5
6

7 For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR UNIFORM FILING FEES AND COURT
9 COSTS; AND FOR OTHER PURPOSES."

10
11 Subtitle

12 "TO PROVIDE FOR UNIFORM FILING FEES AND
13 COURT COSTS"
14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
16

17 SECTION 1. (a) It is hereby found by the General Assembly that the
18 current system of funding the state judicial system has created inequity in
19 the level of judicial services available to the citizens of the state. It is
20 further determined that the current method of financing the state judicial
21 system has become so complex as to make the administration of the system
22 impossible. Finally, it is determined that the lack of any reliable data on
23 the current cost of the state judicial system prohibits any comprehensive
24 change in the funding of the system at this time.

25 (b) It is, therefore, the intent of this act to eliminate the current
26 system of collecting and assessing a large number of individual court costs
27 and filing fees, to replace it with a uniform cost and fee to be applied
28 statewide, and to prohibit the implementation of new costs and fees for
29 specific programs in the future. It is, further, the intent of this act to
30 put in place a reporting system which will allow the General Assembly to
31 obtain accurate data to determine the cost to the state for the funding of the
32 judicial system, so as to allow the state, in the 1997-1999 biennium, to fund
33 the cost of the judicial system from the costs, fees, fines, and such other
34 sources as the General Assembly shall determine.

35 (c) The General Assembly hereby advises all individuals, programs, and
36 agencies which are affected by this act and which receive or expend funds as a

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1 part of the state judicial system to be prepared to provide information on the
2 level of expenditures, number of staff, and related information which were in
3 place and existing during the period January 1, 1994 - December 31, 1994 to
4 the 1997 session of the General Assembly.

5
6 SECTION 2. (a) Except as otherwise provided by this Act, all filing
7 fees and all court costs shall be uniform for each type of case in all general
8 and limited jurisdiction courts of this state.

9 (b) In all cases filed in such courts on or after July 1, 1995, the
10 court costs and filing fees shall be assessed and distributed according to
11 this act.

12 (c) In all cases filed in such courts prior to July 1, 1995, all court
13 costs and filing fees shall be assessed and distributed according to law in
14 existence on the date of the filing, including monies collected on and after
15 July 1, 1995.

16 (d) Prosecuting Attorneys filing actions on behalf of the State, with
17 the exception of child support cases, shall be exempt from paying filing fees.

18
19 SECTION 3. Arkansas Code Annotated 21-6-403 is amended to read as
20 follows:

21 "21-6-403. ~~Circuit and chancery court~~ clerks - Uniform filing fees.

22 (a) The uniform filing fees to be charged by the clerks of the circuit
23 and chancery courts for initiating or reopening a cause of action in the
24 circuit and chancery courts in the state shall be as prescribed in this
25 section. No portion of the filing fees shall be refunded:

- 26 (1) For initiating a cause of action in the circuit court (including
27 appeals) \$110.00
28 (2) For initiating a cause of action in the chancery court \$110.00
29 (3) For reopening a cause of action in the chancery court \$30.00

30 (b) No fee shall be charged or collected by the clerks of the circuit
31 and chancery courts for reopening a cause of action in the chancery court
32 under the following circumstances:

- 33 (1)(A) An agreed order is presented to be filed; or
34 (B) An order of income withholding is to be filed; and
35 (2) No service of process is required.

36 (c) No county shall authorize and no circuit or chancery court clerk

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1 shall assess or collect any other filing fees than those authorized by this
2 act, unless specifically provided by state law."
3

4 SECTION 4. Arkansas Code Annotated 16-14-105(a) is amended to read as
5 follows:

6 "16-14-105. Uniform advance fees and court costs.

7 (a) The uniform advance fees to be charged by the clerks of the probate
8 court for initiating a cause of action in probate court in this state shall be
9 one hundred twenty dollars (\$120), and no portion of the advance fees shall be
10 refunded. No county shall authorize and no chancery or probate court clerk
11 shall assess or collect any other filing fees than those authorized, unless
12 specifically provided by state law."
13

14 SECTION 5. Arkansas Code Annotated 16-17-705 is amended to read as
15 follows:

16 "16-17-705. Filing fees and costs.

17 (a) The uniform filing fee to be charged by the clerks of the municipal
18 court for initiating a cause of action in municipal court in this state shall
19 be as prescribed in this section. No portion of the filing fee shall be
20 refunded.

21 (1) For initiating a cause of action in the civil division of municipal
22 court \$35.00

23 (2) For initiating a cause of action in the small claims division of
24 municipal court \$25.00

25 (b) No municipality shall authorize, and no municipal court clerk shall
26 assess or collect, any other filing fees than those authorized by this act,
27 unless specifically provided by state law."
28

29 SECTION 6. (a) The uniform filing fee to be charged by clerks for
30 initiating a cause of action in city or police courts, courts of common pleas,
31 or any other court of limited jurisdiction in this state shall be twenty-five
32 dollars (\$25.00). No portion of the filing fee shall be refunded.

33 (b) No city shall authorize, and no city court clerk shall assess or
34 collect, any other filing fees than those authorized by this act, unless
35 specifically provided by state law.
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Mike Huether

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1 in Garland County pursuant to § 12-41-617 for the purpose of building a new
2 jail;

3 (2) The costs assessed by the city, municipal, and circuit courts
4 in Lawrence County pursuant to § 12-41-617 for the purpose of building a new
5 jail;

6 (3) The costs assessed by the city and municipal courts of
7 Pulaski County pursuant to §§ 16-17-111 and 16-17-113 for the purpose of
8 completing the municipal court renovation.

9 (4) The costs assessed pursuant to Act 685 of 1971, as amended,
10 by the city and county courts of Pulaski County for the purpose of retiring
11 the indebtedness on the Pulaski County Law Center.

12 (5) The costs assessed by the circuit and chancery courts in
13 Saline County pursuant to § 21-6-403 in effect on January 1, 1995, and used
14 for the purpose of renovation, refurbishing, and equipping of the Saline
15 County Courthouse.

16 (6) Any other costs assessed by the city, municipal, circuit,
17 chancery, or probate courts which are dedicated on the effective date of this
18 act for the purpose of retiring any debt service for construction, when
19 certified by the Arkansas Division of Legislative Audit.

20 (b) For each court in which a court cost included in paragraph (a) of
21 this section shall be continued, that cost shall be in addition to the uniform
22 court costs and filing fees provided in Section 3 through Section 7 of this
23 act.

24 (c) The additional costs specified in paragraph (a) shall not be
25 remitted to the Department of Finance and Administration with the uniform
26 court costs and filing fees provided for in Section 3 through Section 7 of
27 this act, but shall be remitted to the city or county treasurer and credited
28 to the fund and for the limited purpose as provided for in Arkansas Code
29 Annotated §§ 12-41-617, 16-17-111 and 16-17-113 and Act 685 of 1971 as
30 amended.

31
32 SECTION 9. (a) There is hereby created in the Department of Finance
33 and Administration an Administration of Justice Funds Section, to which shall
34 be remitted court costs and filing fees enumerated in Section 3 through
35 Section 7 as provided in this act which are assessed and collected in the
36 police, city, municipal, chancery, probate, and circuit courts in this state.

Mike Hall

Robert L. Rogers

1 There is hereby created on the books of the State Treasurer, the State
2 Auditor, and the Chief Fiscal Officer of the State a trust fund account to be
3 known as the "State Administration of Justice Fund." Said funds shall be
4 deposited by the Section in the State Administration of Justice Fund. The
5 Section shall keep an accurate account of all receipts by type of case and
6 type and location of court from which such fees and costs are submitted.

7 (b) The Section shall also prescribe, in cooperation with the
8 Administrative Office of the Courts and the Association of Arkansas Counties,
9 appropriate forms for the reporting and allocation of all funds and such other
10 information relevant to the income derived by and the costs associated with
11 the operation of the justice system by cities and counties, and shall require,
12 beginning July 1, 1995, the use thereof by all parties remitting funds.

13
14 SECTION 10. (a) There is hereby created in each county a fund in the
15 Office of the County Treasurer to be known as the County Administration of
16 Justice Fund.

17 (b) The County Administration of Justice Fund shall be used to defray a
18 part of the expenses of the administration of justice in the county. From the
19 Fund, the county shall continue to finance the following county agencies and
20 programs which are currently funded, in whole or in part, by filing fees
21 and/or court costs, at a funding level equal to not less than the greater of
22 the amount which was disbursed by the county from filing fees and/or court
23 costs to the agency or program in the calendar year ending December 31, 1994,
24 or the amount appropriated by ordinance enacted prior to December 31, 1994, or
25 on February 14, 1995, or by Resolution dated February 9, 1995, to the agency
26 or program for the calendar year ending December 31, 1995:

27 (1) the prosecuting attorney fund including all grant funds
28 awarded and appropriated for calendar year ending December 31, 1995;

29 (2) the prosecuting attorney's victim-witness program fund;

30 (3) the public defender/indigent defense fund and public defender
31 investigator fund including all grant funds awarded and appropriated for
32 calendar year ending December 31, 1995;

33 (4) the county law library fund;

34 (5) the county jail fund; and

35 (6) the intoxication detection equipment fund.

36 (c) The County Administration of Justice Fund of each county may retain

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President of the Senate

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1 an amount equal to the amount which was disbursed by the county from court
2 costs and filing fees for county administration of justice expense in the
3 calendar year ending December 31, 1994, or the amount appropriated from court
4 costs and filing fees by ordinance enacted prior to December 31, 1994, or on
5 February 14, 1995, or by Resolution dated February 9, 1995, for county
6 administration of justice expense from court costs and filing fees for the
7 calendar year ending December 31, 1995, plus for each year after calendar year
8 1995 an additional amount based upon the increase in the Consumer Price Index
9 as published by the Bureau of Labor Statistics of the Department of Labor
10 using the greater of the amount disbursed in calendar year 1994 or the amount
11 appropriated for calendar year 1995 as the base, which base shall be increased
12 by the percentage that the Consumer Price Index for December of the succeeding
13 year bears to the base.

14 (d) Nothing in this act shall prevent the county from funding any
15 additional costs for the administration of justice from other county funds or
16 as disbursed by the county as required and authorized by the 80th General
17 Assembly meeting in regular session.

18
19 SECTION 11. (a) There is hereby created in each municipality which
20 operates a police, city, or municipal court a fund in the Office of the City
21 Treasurer to be known as the City Administration of Justice Fund.

22 (b) The City Administration of Justice Fund shall be used to defray a
23 part of the expense of the administration of justice in the city. From the
24 Fund, the city shall continue to finance the following city agencies and
25 programs which are currently funded, in whole or in part, by filing fees
26 and/or court costs, at a funding level equal to not less than the greater of
27 the amount which was disbursed by the city from court costs and/or filing fees
28 to the agency or program in the calendar year ending December 31, 1994, or the
29 amount appropriated by ordinance enacted prior to December 31, 1994, to the
30 agency or program for the calendar year ending December 31, 1995:

- 31 (1) the municipal court judge and clerk retirement fund;
32 (2) the police and fire pension fund;
33 (3) the intoxication detection equipment fund;
34 (4) all municipal-level programs and agencies funded in whole or
35 in part by court costs and filing fees assessed and collected by the
36 municipal, city, or police court, notwithstanding the repeal by this act, of

1 laws authorizing the collection of court costs and filing fees; and
2 (5) all county-level programs and agencies funded in whole or in
3 part by court costs and filing fees assessed and collected by the municipal,
4 city, or police court, notwithstanding the repeal, by this act, of laws
5 authorizing the collection of court costs and filing fees and the disbursement
6 of all or a part thereof to the county.

(c) The City Administration of Justice Fund of each city may retain an amount equal to the amount which was disbursed by the city from court costs and filing fees for city administration of justice expense in the calendar year ending December 31, 1994, or the amount appropriated from court costs and filing fees by ordinance enacted prior to December 31, 1994, for city or county administration of justice expense from court costs and filing fees for the calendar year ending December 31, 1995, plus for each year after calendar year 1995 an additional amount based upon the increase in the Consumer Price Index as published by the Bureau of Labor Statistics of the Department of Labor using the greater of the amount disbursed in calendar year 1994 or the amount appropriated for calendar year 1995 as the base, which base shall be increased by the percentage that the Consumer Price Index for December of the succeeding year bears to the base.

(d) Nothing in this act shall prevent the city from funding any additional costs for the administration of justice from other city funds.

23 **SECTION 12.** The county shall, on or before the tenth (10th) day of
24 November, 1995, and on or before the tenth (10th) day of each month
25 thereafter, remit all sums received in excess of the amounts necessary to fund
26 the expenses enumerated in Section 10(b) and (c) of this act during the
27 previous month from the uniform filing fees provided for in Sections 3 and 4
28 herein and the uniform court costs provided for in Section 7 herein to the
29 Department of Finance and Administration, Administration of Justice Fund
30 Section, for deposit in the State Administration of Justice Fund.

32 *SECTION 13. The city shall, on or before the tenth (10th) day of*
33 *November, 1995, and on or before the tenth (10th) day of each month*
34 *thereafter, remit all sums received in excess of the amounts necessary to fund*
35 *the expenses enumerated in Section 11(b) and (c) of this act during the*
36 *previous month from the uniform filing fees provided for in Sections 5 and 6*

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President of the Senate

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1 herein and the uniform court costs provided for in Section 7 herein to the
2 Department of Finance and Administration, Administration of Justice Fund
3 Section, for deposit in the State Administration of Justice Fund.
4

5 SECTION 14. (a) In the event a city or county fails to timely or
6 adequately submit funds and reports required by Sections 9, 12, or 13 of this
7 act,

8 (1) the Attorney General may file a civil suit in circuit court
9 against the city or county alleged to have failed to submit the funds required
10 by this act. If the county or city is found by the court to have failed to
11 submit the funds and reports required by this act, the court shall impose a
12 civil penalty on such county or city of ten percent (10%) of the amount
13 required to be remitted for the period of time the county or city has failed
14 to be in compliance with this act. Such actions may be brought in the circuit
15 court of the subject county or the circuit court of Pulaski County. The
16 Attorney General shall be allowed to recover costs and attorney's fees
17 associated with the civil suit from the county or city found to have violated
18 the provisions of this act; or

19 (2) the Chief Fiscal Officer of the State may, upon a finding
20 that the city or county has failed to submit the funds and reports required by
21 this act, withhold from month to month an equal amount from the city's or
22 county's share of the state turnback funds owed to such city or county, until
23 the funds required to be paid by this act have been submitted; and

24 (3) provided the failure to act continues for a period of sixty
25 (60) days, the State may, upon a finding by the Chief Fiscal Officer, require
26 such county or city to remit all costs and fees generated by this act. Such
27 county or city will thereafter receive its share of these funds at a time and
28 in the manner prescribed by regulations of the Chief Fiscal Officer.

29 (b) All funds received pursuant to Section 14(a) shall be transferred
30 to the Administration of Justice Fund to be held and distributed pursuant to
31 this act.
32

33 SECTION 15. At the close of books on the twentieth (20th) working day
34 of November, 1995, and on or before the twentieth (20th) working day of each
35 month thereafter, the Department of Finance and Administration shall make the
36 following distribution of revenue received for the previous month and credited

Mike Murray
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1 to the State Administration of Justice Fund:

2 The following State programs and agencies which are currently funded by
3 court costs and filing fees shall be paid at an annual rate, at not less than
4 the amounts certified by the Department of Finance and Administration which
5 were received by the program or agency in the fiscal year ending June 30,
6 1995, in a monthly installment of at least one-twelfth (1/12) of the annual
7 appropriation provided for each agency for this purpose from the State
8 Administration of Justice Fund:

9 (1) the Board of Trustees of the University of Arkansas for the purpose
10 and as regulated by Arkansas Code Annotated § 6-64-604 - 606;

11 (2) the Public Health Fund for use in the Drug Abuse Prevention and
12 Treatment program of the Division of Alcohol and Drug Abuse Prevention;

13 (3) the Highway Safety Special Fund for programs of the Arkansas
14 Highway Safety Program;

15 (4) the Department of Arkansas State Police for the State Police
16 Retirement Fund;

17 (5) the Crime Victims Reparations Revolving Fund for the purpose and as
18 regulated by Arkansas Code Annotated § 16-90-701 et seq.;

19 (6) the Prosecutor Coordinator's office for deposit in the Law
20 Enforcement and Prosecutor Drug Enforcement Training Fund;

21 (7) the Code Revision Fund for the purpose and as regulated by Arkansas
22 Code Annotated § 1-2-305;

23 (8) the Crime Information System Fund;

24 (9) the Municipal Court Judge and the Municipal Court Clerk Education
25 Fund;

26 (10) the Arkansas Judicial Retirement System Fund;

27 (11) the state Central Services Fund for the benefit of the Public
28 Defender Commission;

29 (12) the Court Reporter Fund;

30 (13) the Justice Building Fund;

31 (14) until June 30, 1996, the Arkansas Counties Alcohol and Drug Abuse
32 and Crime Prevention Fund; and

33 (15) effective July 1, 1996, the Administration of Justice Fund to fund
34 the trial court staff persons authorized by Section 16 of this act.

35
36 SECTION 16. (a) Beginning July 1, 1996, positions shall be authorized

Mike Huckabee

Robert L. Hogue

1 and funds appropriated to the Auditor of State from the State Administration
2 of Justice Fund to provide one (1) staff person for each of the judges of the
3 circuit, chancery, and probate courts. The staff person may be employed to
4 perform secretarial, docketing, and management services. Each judge of the
5 circuit, chancery, or probate court shall report to the Administrative Office
6 of the Courts his intention to employ such a staff person. Two (2) or more
7 judges within a judicial district may employ jointly, in their discretion, one
8 (1) staff person when coordinated with the Administrative Office of the
9 Courts.

10 (b) The circuit, chancery, or probate judges authorized by subparagraph
11 (a) of this section to employ a staff person shall have the authority to
12 select and hire the person who will serve, and any person so employed shall
13 serve at the will and pleasure of the judge.

14 (c) The entry level salary of a trial court staff person shall be equal
15 to that established in the State pay plan at grade 16. No trial court staff
16 person authorized by this act shall receive a salary from the state in excess
17 of twenty-five thousand dollars (\$25,000). A county or counties shall be
18 authorized to supplement the base salary of any trial court staff person, when
19 approved by the quorum court.

20 (d) The staff persons shall be subject to the Uniform Attendance and
21 Leave Policy Act, as administered by the judge by whom they are employed.

22 (e) A trial judge who already has one (1) or more staff persons on the
23 effective date of this act shall designate one (1) such staff person to be
24 subject to and paid by the provisions of this act.

25

26 SECTION 17. The uniform filing fees and court costs established by
27 Sections 3 through 7 of this act shall become effective on July 1, 1995;
28 however, from the period beginning July 1, 1995, through September 30, 1995,
29 all courts shall deduct from the uniform fees and costs the individual fees
30 and costs owed to local, county, and state level agencies and disburse those
31 funds as required by law prior to the adoption of this act. Excess funds
32 shall be retained by the city or county and utilized as directed by the
33 governing body, but are, however, intended to provide a sufficient level of
34 funds as to allow for the change in the disbursement of funds as required by
35 Sections 12 and 13 of this act.

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1 SECTION 18. All provisions of this act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

4
5 SECTION 19. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

10
11 SECTION 20. Arkansas Code Annotated §§ 1-2-306, 5-64-416, 5-64-709,
12 5-65-113, 5-65-115(c), 5-65-307(c)(1) and (2), 6-64-603, 12-41-617,
13 14-20-102(b), 14-20-115, 14-42-112(e), 16-17-109, 16-17-110, 16-17-111,
14 16-17-112, 16-17-113, 16-17-123, 16-17-402(c) and (d), 16-17-614, 16-19-413,
15 16-20-107, 16-21-106(b)(2)(B) and (C), 16-21-113(f), 16-21-1103(b),
16 16-21-1503(a), 16-23-103, 16-87-111(b), 16-90-718, 16-92-110, 16-92-111,
17 16-92-116, 20-7-123(a)(1)(C) and (F), 20-18-405, 20-18-502(c), 21-6-404,
18 21-6-405, 21-6-410, 22-3-920, 24-8-303, 24-8-315(e), 24-8-402 and 27-50-401
19 are hereby repealed effective October 1, 1995.

20
21 SECTION 21. Section 2 of Act 685 of 1971 as amended by Acts 995 and
22 1081 of 1975, Act 311 of 1981, Act 472 of 1981, Act 958 of 1981, Act 972 of
23 1981, Act 978 of 1981, Act 989 of 1981, Act 4 of 1983, Act 300 of 1983,
24 Section 3 of Act 335 of 1983, Section 7 of Act 485 of 1983, Act 576 of 1983,
25 Act 607 of 1983, Act 610 of 1983, Act 682 of 1983, Act 803 of 1983, Act 919 of
26 1983, Act 322 of 1987, Act 543 of 1987, Act 782 of 1987, Act 851 of 1987, Act
27 255 of 1989, Act 349 of 1989, Act 398 of 1989, Act 442 of 1989, Act 1149 of
28 1991, Act 1150 of 1991, and Act 311 of 1993 are hereby repealed effective
29 October 1, 1995.

30
31 SECTION 22. All other laws and parts of laws in conflict with this act
32 are hereby repealed.

33
34 SECTION 23. EMERGENCY. It is hereby found and determined by the
35 General Assembly of the State of Arkansas that the current system of funding
36 the state judicial system has created inequity in the level of judicial

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of the House

1 services available to the citizens of the state; and it is further determined
2 that the current method of financing the state judicial system has become so
3 complex as to make the administration of the system impossible, and the lack
4 of reliable data on the current costs of the state judicial system prohibits
5 any comprehensive change in the funding of the system at this time.
6 Therefore, an emergency is hereby declared to exist and this act being
7 necessary for the immediate preservation of the public peace, health, and
8 safety, shall be in full force and effect from and after its passage and
9 approval."

10 /s/Dowd
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APPROVED *[Signature]*
4/13/95 GOVERNOR

[Signature]
Speaker of the House